



0602-906683

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

*Argu.*  
*Cofler*  
*5-25-04*

IN RE THE APPLICATION OF

Hewett et al.

SERIAL NO.: 10/070,348

FILED: February 28, 2002

FOR: Improvements In Or Relating To  
Environmental Enrichment Of  
Caged Animals

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**GROUP 3600**

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Response To Office Action Of December 2, 2003

Honorable Director of Patents and Trademarks  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

In response to the examiner's office action of December 2, 2003, the applicants offer the following comments. No amendments are being proposed since no amendments are believed appropriate, under the circumstances.

Claims 21 through 39 are pending in the application, and the examiner has first rejected claims 21, 23, 24, 35 and 36 under 35 U.S.C. §102 as being anticipated by Tominaga U.S. Patent Number 5,392,733. The remaining claims have been rejected on the basis of obviousness under 35 U.S.C. §103, again with Tominaga being the cited reference.

The examiner appears to have misunderstood the teaching of Tominaga, which is concerned with a pet toilet of such a structure that bodily waste and any litter materials are prevented from being scattered from the toilet. Tominaga is therefore concerned rather with the structure of the item of cage furniture than its color and in fact shows an item of cage furniture

that is transparent or translucent to a human observer and that is also transparent or translucent to a caged rodent.

Claim 21 differs from Tominaga in that it is directed to a cage or an item of cage furniture comprising a material which is transparent or translucent to a human observer **but is perceived as being substantially darkened or opaque by a caged rodent.**

Such a cage or an item of cage furniture relies on the fact that rodents cannot perceive certain colors that are perceptible by humans. By making the cage or item of cage furniture from a material of such a color, the cage or item of cage furniture acts as a filter that passes light of only that color, so that a human observer can see the rodent through the filter, but the rodent is unable to see the human observer.

Tominaga is silent as to the color of the item of cage furniture but, in any case, it is clear that Tominaga is unconcerned with whether the caged rodent is able to see a human observer. See for example, drawing Figure 5 of Tominaga, which shows an item of cage furniture with a large cut-out 11 on its lid, through which the rodent would be able to clearly see a human observer. Moreover the pair of openings towards the top of the cover of the item of cage furniture (which defines handle means) is an essential feature of claim 1 of Tominaga.

The cage or item of cage furniture of claim 21 of the present application therefore has a significant advantage over Tominaga when used in a laboratory, because it allows a caged rodent to be observed by a human observer without the presence of the human observer having any effect on the behavior of the caged rodent. This of course is vital in animal behavioral studies. In addition, the opaque nature of the item of cage furniture (as perceived by the rodent), encourages nesting and other "natural" behavior and thus provides an improved environment for the rodent.

Claim 21 is therefore novel and not rendered obvious in view of Tominaga and should be allowed.

Claims 22 to 36 are dependent from claim 21 and are therefore novel and non-obvious by virtue of this dependency, and should be allowed.

Independent claims 37 to 39 are novel and non-obvious for the same reasons as set out above in relation to claim 21 and should also be allowed.

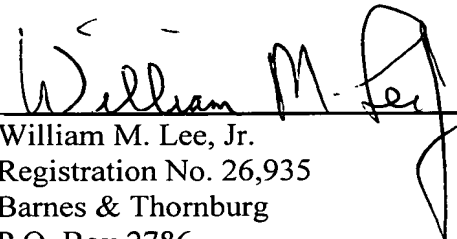
Combining the teachings of Tominaga and U.S. Patent Number 5,894,816 (Coiro) would not give rise to a cage or item of cage furniture with all of the features of claim 34. Claim 34 is therefore novel over Coiro, and for the reasons set out above in relation to claim 21, is not obvious in view of Coir and should therefore be allowed.

It is therefore submitted that this application is in condition for allowance and the examiner's further and favorable reconsideration in that regard is urged.

As this response is being submitted during the fourth month following the examiner's office action, an appropriate petition for extension of time is also submitted herewith.

April 2, 2004

Respectfully submitted,

A handwritten signature in black ink, appearing to read "William M. Lee, Jr.", is written over a horizontal line. The signature is stylized with a large, looped initial "W" and a long, sweeping tail that extends downwards and to the right.

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